

(3) For the purpose of this section, all fluid milk products disposed of as route disposition or at stores operated by him or by any person (including the operator of a plant, or a vendor) who controls or is controlled by him (e.g., as an interlocking stockholder) or in which he (including, in the case of a corporation, any stockholder therein) has a financial interest, shall be considered as having been received at his plant; and the utilization for such plant shall include all such route and store dispositions; and

(c) Disposes of no other source milk (except that represented by nonfat solids used in the fortification of fluid milk products) as Class I milk.

**§ 1134.11 [Reserved]**

**§ 1134.12 Producer.**

(a) Except as provided in paragraph (b) of this section, *producer* means any person who produces milk in compliance with the inspection requirements for fluid consumption of a duly constituted health authority, whose milk is received at a pool plant or diverted to a nonpool plant that is not a producer-handler plant within the limits set forth in paragraphs (a) (1) and (2) of this section:

(1) A cooperative association may divert for its account the milk of any member-producer from whom not less than 3 days' production was received during the month at a distributing pool plant. The total quantity of milk so diverted may not exceed 60 percent in the months of March, April, May, June, July, and August and 30 percent in other months of its member-producer milk received at pool plants during the month. Diversions in excess of such percentages shall not be considered producer milk, and the diverting cooperative shall specify the dairy farmers whose milk is ineligible as producer milk. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed a request in writing with the market administrator on or before the first day of the month the agreement is effective. Such request shall specify the basis for assigning overdiverted

milk to the producer-members of each cooperative association, at a time and in a manner approved by the market administrator.

(2) A handler may divert for his account the milk of any producer, other than a member of a cooperative association which has diverted milk pursuant to paragraph (a)(1) of this section, from whom not less than 3 days' production was received during the month at the pool plant. The total quantity of milk so diverted may not exceed 60 percent in the months of March, April, May, June, July, and August and 30 percent in other months of the milk received at such distributing pool plant during the month from producers who are not members of a cooperative association which has diverted milk pursuant to paragraph (a)(1) of this section. Diversions in excess of such percentages shall not be considered producer milk, and the diverting handler, at a time and in a manner approved by the market administrator, shall specify the dairy farmers whose milk is ineligible as producer milk.

(3) For the purpose of the requirements of § 1134.7, milk diverted for the account of the operator of a distributing pool plant, except an operator who is also a cooperative association diverting milk in the same month pursuant to paragraph (a)(1) of this section, shall be included in the receipts of the pool plant from which diverted.

(4) For purpose of location adjustments pursuant to §§ 1134.52 and 1134.75, milk diverted to a nonpool plant shall be considered to have been received at the location of the pool plant from which diverted.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1134.44(a)(8)(iii) and the corresponding step of § 1134.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any